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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,761	11/26/2003	John Gavin MacDonald	KCX-1068 (19800)	9700

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EXAMINER	
CHAPMAN, GINGER T	
ART UNIT	PAPER NUMBER
3761	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/723,761	MACDONALD ET AL.	
	Examiner	Art Unit	
	Ginger T. Chapman	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17,18,22-28 and 32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *17,18,22-28 and 32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 November 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of the claims

Claims 17-18, 22-28 and 32 are pending in the application; claims 1-16, 19-21, 29-31 and 33 are cancelled.

Drawings

1. The drawings were received on 28 November 2007. These drawings are acceptable.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 17, 18 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami et al (US 3,939,838) in view of Goldfarb (US 3,490,454 B2).

5. With respect to claim 17, as seen in Figures 1, 2, 5 and 6, Fujinami teaches a personal care product (fig. 1: 11) comprising: a liquid impervious baffle (25, 55, 65), a liquid pervious

liner (22, 52, 62); an absorbent core (23, 53, 63) positioned between baffle and liner; and an odor sorbent substrate (26, 56, 66) (c. 3, ll. 23-24) positioned between the baffle and the absorbent core (fig. 2) and wrapped around the absorbent core in a manner that one or more sides are left open (fig. 5), wherein the substrate (26) comprises activated carbon ink (c. 3, ll. 35-40).

6. Fujinami discloses the claimed invention except for the substrate surface is coated with carbon ink. Fujinami teaches the substrate is impregnated with the activated carbon ink, thus the interior surface of the Fujinami substrate is deemed to be coated. As seen in Figures 1 and 2, Goldfarb teaches a personal care product in the form of a sanitary napkin (1) comprising an odor sorbent substrate (6) that has a surface that is coated with the odor sorbent (c. 1, ll. 15-20). Additionally, Goldfarb teaches that both coating and impregnating the substrate are equivalent methods of providing the odor sorbent. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the sorbent of Fujinami as a coating as taught by Goldfarb since Goldfarb states, at c. 1, l. 20; c. 2, l. 5 and at c. 3, l. 1, that the benefit of providing the coating on an exterior surface is that the odor sorbent will be available at a location where it is needed to mask or prevent odors.

7. With respect to the limitation of binder, when active carbon is mixed with the cellulose of Fujinami (c. 3, ll. 35-40), the cellulose is a binder.

8. With respect to claim 18, Fujinami teaches the personal care product is a sanitary napkin.

9. With respect to claims 25 and 26, Fujinami teaches airlaid paper web (c. 3, ll. 35-40).

10. With respect to claim 27, as best depicted in Figure 4, Fujinami teaches the substrate (44) contains a film (c. 3, ll. 30-31 and c. 2, ll. 47-50).

11. Claims 28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami/ Goldfarb and further in view of Hu et al (US 6,740,406).

12. With respect to claim 28, Fujinami/ Goldfarb disclose the claimed invention except for the binder is styrene-acrylic binder. Hu, at c. 10, l. 9, teaches styrene-acrylic binder. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the carbon of Fujinami with the binder of Hu, since Hu states, at c. 9, ll. 5-10 that the benefit of adding binder is that it holds the activated carbon together and provides useful physical properties.

With respect to claim 32, Fujinami discloses the claimed invention except for the ink is applied to the substrate as an aqueous solution. Hu, at c. 4, ll. 34-40, teaches the ink is applied to the substrate as an aqueous solution. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the ink of Fujinami as an aqueous solution as taught by Hu with a reasonable expectation of success since applying an aqueous solution to a substrate is applying a known technique to a known product to yield the predictable result of coating the substrate.

13. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami/Goldfarb in view of Giglia et al (US 4,565,727).

14. With respect to claim 22-24, Fujinami/Goldfarb dislcose the claimed invention but do not expressly disclose the carbon particles are present in a range of between about 2 and 80 weight % of the substrate on a dry basis. As seen at c. 1, l. Giglia teaches activated carbon particles are 15-80 wt. % of the substrate for increased sorption, suggesting that the greater the desired absorption, the greater the amount of activated carbon particles. Therefore it would have

been obvious to one having ordinary skill in the art at the time the invention was made to provide the activated carbon particles of Fujinami/Goldfarb in the claimed ranges for the desired degree of adsorptiveness with a reasonable expectation of success since it has been held that when the claimed range and the prior art range are very similar, (i.e. about 2 to 80 % and about 15 to 80 %), the range of the prior art establishes *prima facie* obviousness because one of ordinary skill in the art would have expected the similar ranges to have the same properties. See *In re Peterson*, 65 USPQ2d 1379, 1382. Furthermore, the disclosure by the reference of a preferred embodiment does not teach away from the entire disclosure of the patent, all of which must be considered in the analysis of obviousness. See *In re Burckel*, 201 USPQ 67, 70.

Response to Arguments

15. Applicant's arguments with respect to claims 17-18, 22-28 and 32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ginger T Chapman/
Examiner, Art Unit 3761
3/15/08
/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761